

### IN THE SPECIFICATION

Please amend the specification as follows:

On page 1, line 1, please insert the following paragraph:

C<sup>1</sup> The instant application is a continuation of U.S. Patent App. No. 08/687,707, filed May 26, 1996, which issued as Patent No. 6,274,309, on August 14, 2001.

### IN THE CLAIMS

Please amend claim 9 to read as follows:

C<sup>2</sup> 9. (Twice amended) The method of Claim 1 or 10 wherein the apoptotic morphology comprises cellular condensation, nuclear condensation or zeiosis.

### REMARKS

Claims 1-3, 5, 7 and 9-13 were pending in this application. Claim 9 has been amended herein for clarity. Upon entry of the amendments made herein, claims 1-3, 5, 7 and 9-13 will be pending in the application.

The specification has been amended as suggested by the Examiner so as to update the relationship between the instant application and U.S. Patent Application No. 08/678,707, filed May 26, 1996, which is now U.S. Patent No. 6,274,309, issued August 14, 2001. No new matter has been added.

### THE REJECTION UNDER 35 U.S.C. § 112, FIRST PARAGRAPH

Claims 1-3, 5, 7, and 9-13 stand rejected under 35 U.S.C. § 112, first paragraph as allegedly not conveying to the skilled artisan that the inventor had possession of the invention at the time the application was filed. Applicants respectfully disagree and direct the Examiner's attention to Section 2163 of the Manual of Patent Examining Procedure, entitled "Guidelines for the Examination of Patent Applications Under the 35 U.S.C. 112, para. 1, 'Written Description' Requirement."

The Examiner bears the initial burden of presenting evidence why a person of skill in the art at the time the invention was made, would not recognize in the applicant's disclosure, a description of the invention defined by the claims. See *In re Wertheim*, 191 USPQ 90, 97 (CCPA 1976). In other words, a description as filed is presumed to be